IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2416 OF 2005

IN

SUIT NO.4057 OF 1994

1.Sham Bhajanma Luthria & another. ...Plaintiffs.

vs.

1.Nalin Pravin Coksi & others. ...Defendants.

Mr.A.K.Saxena, for Plaintiffs.

None for Defendants.

CORAM: D.K.DESHMUKH,J.

DATED: 28th MARCH,2007..

P.C.:-

1. This is a notice of motion taken out by the plaintiffs for restoration of the suit which was dismissed by the Prothonotary and Senior Master of this Court. The suit was filed in the year 1994. In the

year 1999 it was fixed on the board of the Prothonotary & Senior Master of this Court for direction. On 12.8.1999, none appeared for plaintiffs, therefore, the suit was adjourned to 19.8.1999. On 19.8.1999 again none appeared for plaintiff, therefore, the suit was dismissed for default.

2. This notice of motion for restoration of that suit has been taken out in August,2005 i.e. six years after the suit was dismissed for default. The only explanation given is that the Advocate of the plaintiffs by name Ms.Kiran V. Gupta was not keeping good health and therefore, could not attend te suit when it was listed before the Prothonotary and Senior Master of this Court, and that she has subsequently died. When the Advocate for plaintiffs died is not disclosed, since when the plaintiffs' then Advocate was not keeping good health is not disclosed. The suit is for decree of specific performance of the agreement to sale. The reasons given in the affidavit filed in support of the notice of motion are absolutely vague. In my opinion, restoration of such a suit after such a long time will defeat the ends of justice instead furthering the interest of justice. Therefore, the suit cannot be restored. The notice of motion is disposed of.